

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6652

BILL NUMBER: HB 1963

NOTE PREPARED: Jan 20, 2003

BILL AMENDED:

SUBJECT: Unsolicited Electronic Mail.

FIRST AUTHOR: Rep. Thompson

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill requires the Attorney General to establish a list of electronic mail addresses of persons who request not to receive commercial or charitable solicitations by electronic mail. The bill provides that a person may not send a commercial or charitable solicitation by electronic mail to an electronic mail address on the list. The bill authorizes the Attorney General to seek civil remedies for violations. The bill provides immunity to an interactive computer service from actions for blocking electronic mail that violates the statute.

It changes the name of the Telephone Solicitation Fund.

Effective Date: July 1, 2003.

Explanation of State Expenditures: This bill would effectively modify the Attorney General's Telephone Privacy List program to include a listing of the names and email addresses of persons who request not to receive commercial or charitable solicitations. The Attorney General's Office estimates that this provision will potentially increase the costs of its Consumer Protection Division by \$759,000 per year, an amount equal to the cost currently required to maintain the Telephone Privacy List.

The bill also establishes conditions for sending unsolicited commercial email. Depending on the extent to which the Attorney General's office brings actions against persons who violated the bill's requirements, the bill will further increase the Attorney General's administrative costs. However, a portion of the impact may be partially mitigated if a convicted sender is ordered to pay the Office's attorney fees and other reasonable costs.

The bill creates the Consumer Protection Solicitation Fund. The Fund consists of fee revenue currently paid into the Telephone Solicitation Fund and fine revenue recovered from violators of the bill's provisions. Revenue in the Fund is not expected to be sufficient to support the maintenance of the No Electronic Mail Solicitation Listing (see *Explanation of State Revenues*, below). The bill does not contain an appropriation.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of January 20, 2003, the Attorney General's office reported 56 vacancies. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background on the Telephone Privacy List: During the FY 2004-FY 2005 biennium, the Attorney General's office estimates that the Telephone Privacy List will cost approximately \$759,000 to operate. The program currently has five full-time budgeted staff positions. The List's program costs are covered using fees paid by telephone solicitors to obtain a copy of the list and fines assessed against violating telephone solicitors. Telephone solicitors are currently charged an annual fee of \$750 for four consecutive quarterly updates of the Telephone Privacy List.

Explanation of State Revenues: Current law provides that the Attorney General may adjust the cost of the fee charged telephone solicitors for the Telephone Solicitation List to cover the costs required to provide the list. This bill does not provide for the generation of fee revenue from the distribution of the No Electronic Mail Solicitation Listing.

Penalty Provisions: A person that does not meet the bill's requirements for senders of commercial e-mail and sends to a person listed on the Electronic Mailing Solicitation List commits a deceptive act actionable by the Attorney General. In a civil action against a sender, the Attorney General may obtain an injunction against the sender and a civil penalty up to \$10,000 for the first violation and a penalty of \$25,000 for the second and subsequent violations. Each unsolicited e-mail would be considered a separate violation. Any fine revenue would be deposited in the Consumer Protection Solicitation Fund. The court may order the sender to pay the Attorney General's reasonable costs of investigation and prosecuting the action.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Attorney General's Office.

Local Agencies Affected: Marion County circuit and superior courts.

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